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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,025	12/28/2001	Vladimir V. Protopopov	10544/169	9200
757	7590	07/27/2004	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			KEANEY, ELIZABETH MARIE	
			ART UNIT	PAPER NUMBER
			2882	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/035,025

Applicant(s)

PROTOPOPOV, VLADIMIR V.

Examiner

Elizabeth Keaney

Art Unit

2882

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 27 February 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.


The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 18.Claim(s) rejected: 1-17 and 19-25.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: the arguments were not found persuasive. Re claims 1-17: The Applicant argues that there is no suggestion of a substitution of "a Fabry-Perot analyzer that suppresses the intensity of a beam of radiation and transmits a second beam of radiation" for "an analyzer that suppresses the intensity of a portion of the beam of penetrating radiation and transmits a second portion of the beam" as claimed in the instant application. The Examiner respectfully disagrees. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a Fabry-Perot analyzer for the analyzer of the instant application because the Fabry-Perot analyzer has identical functions as that of the claimed analyzer (i.e. suppressing the intensity of a beam of radiation and transmitting the second portion of the beam of radiation). Re claims 19-25: The Applicant further argues that since claim 19 of the instant application is a method, the structure claim, claim 1, of the co-pending application 09/797498 fails to anticipate the method of claim 19. The Examiner respectfully disagrees. While claim 1 of application 09/797498 claims a structure, the operation of the structure reads on the method of claim 19 of the instant application and therefore anticipates claim 19. Accordingly, all provisional nonstatutory double patenting rejections are being maintained.